



BDAC/jfw

PTO/SB/21 (08-03)

Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/715,243	
	Filing Date	11/18/2003	
	First Named Inventor	Mark N. Heflin	
	Art Unit	3644	
	Examiner Name	Dinh, Tien Quang	
Total Number of Pages in This Submission	3	Attorney Docket Number	991316

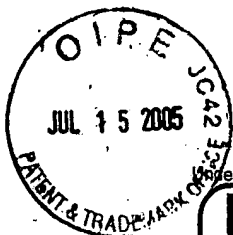
ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Petition Under Rule 1.181(a)(3) and MPEP 706.07(c)
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	To Withdraw Final Rejection
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Alan P. Klein
Signature	<i>Alan P. Klein</i>
Date	7/13/2005

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Diane R. Winter		
Signature	<i>Diane R. Winter</i>	Date	7/13/2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (12/99)
Approved for use through 09/30/2000. OMB 0651-0032
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FEE TRANSMITTAL for FY 2005

Patent fees are subject to annual revision.
Small Entity payments must be supported by a small entity statement,
otherwise large entity fees must be paid. See Forms PTO/SB/09-12.
See 37 C.F.R. §§ 1.27 and 1.28.

TOTAL AMOUNT OF PAYMENT (\$) 130

Complete if Known

Application Number	10/715,243
Filing Date	11/18/2003
First Named Inventor	Mark N. Heflin
Examiner Name	Dinh, Tien Quang
Group / Art Unit	3644
Attorney Docket No.	991316

METHOD OF PAYMENT (check one)

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number 50-1340

Deposit Account Name

- ☒ Charge Any Additional Fee Required Under 37 CFR §§ 1.16 and 1.17

2. ☐ Payment Enclosed:

☐ Check ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Small Entity Fee Code	Fee Description	Fee Paid
101 690	201 345	Utility filing fee	
106 310	206 155	Design filing fee	
107 480	207 240	Plant filing fee	
108 690	208 345	Reissue filing fee	
114 150	214 75	Provisional filing fee	

SUBTOTAL (1) (\$) 130

2. EXTRA CLAIM FEES

	Extra Claims	Fee from below	Fee Paid
Total Claims	-20** =	X	
Independent Claims	-3** =	X	
Multiple Dependent			

**or number previously paid, if greater; For Reissues, see below

Large Entity Fee Code	Small Entity Fee Code	Fee Description	Fee Paid
103 18	203 9	Claims in excess of 20	
102 78	202 39	Independent claims in excess of 3	
104 260	204 130	Multiple dependent claim, if not paid	
109 78	209 39	** Reissue independent claims over original patent	
110 18	210 9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$) 0

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Small Entity Fee Code	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	
127 50	227 25	Surcharge - late provisional filing fee or cover sheet	
139 130	139 130	Non-English specification	
147 2,520	147 2,520	For filing a request for reexamination	
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	
115 110	215 55	Extension for reply within first month	
116 380	216 190	Extension for reply within second month	
117 870	217 435	Extension for reply within third month	
118 1,360	218 680	Extension for reply within fourth month	
128 1,850	228 925	Extension for reply within fifth month	
119 300	219 150	Notice of Appeal	
120 300	220 150	Filing a brief in support of an appeal	
121 260	221 130	Request for oral hearing	
138 1,510	138 1,510	Petition to institute a public use proceeding	
140 110	240 55	Petition to revive - unavoidable	
141 1,210	241 605	Petition to revive - unintentional	
142 1,210	242 605	Utility issue fee (or reissue)	
143 430	243 215	Design issue fee	
144 580	244 290	Plant issue fee	
122 130	122 130	Petitions to the Commissioner	130
123 50	123 50	Petitions related to provisional applications	
126 240	126 240	Submission of Information Disclosure Stmt	
581 40	581 40	Recording each patent assignment per property (times number of properties)	
146 690	246 345	Filing a submission after final rejection (37 CFR § 1.129(a))	
149 690	249 345	For each additional invention to be examined (37 CFR § 1.129(b))	

Other fee (specify) _____

Other fee (specify) _____

* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 130

SUBMITTED BY

Name (Print/Type)	Alan P. Klein	Registration No. (Attorney/Agent)	26,926	Telephone	703-696-8113
Signature	Alan P. Klein	Date	07/13/2005		

WARNING:

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Army Case No. 991316

Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application:
MARK N. HEFLIN
JAMES B. STEWART
SAMUEL L. KAESEMEYER
Serial No. 10/715,243
Filed: 11/18/2003
For: NON-PYROTECHNIC
REMOTE-CONTROLLED
PARACHUTE JETTISON DEVICE

Art Unit No. 3644
Examiner: Dinh, Tien Quang
Confirmation No. 4994

PETITION UNDER RULE 1.181(a)(3)
AND MPEP 706.07(c)
TO WITHDRAW FINAL REJECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Your petitioner hereby requests withdrawal of the finality of the Final Rejection dated 06/06/2005. There has been a proper request for consideration (under Rule 1.111) and a repeated action by the Examiner.

Remarks begin on page 2 of this paper.

07/18/2005 SHASSEN1 00000049 501340 10715243

01 FC:1464 130.00 DA

Application No. 10/715,243
Petition dated 07/13//2005
Reply to Office Action of 06/06/2005

REMARKS

Applicants request withdrawal of the finality of the Final Rejection dated 06/06/2005, in the above-entitled application.

The Final Rejection is premature. It was made in the second action although that action included a new ground of rejection neither necessitated by applicants' amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Specifically, claims 1, and 6-13, were originally rejected as being unpatentable under 35 USC 103(a) over Underwood et al. in view of Kenzie.

Claims 1, and 6-13, have now been rejected on a new ground as being unpatentable under 35 USC 103(a) over Underwood et al. in view of Kenzie and Tillman.

Claims 1, and 6-13, have never been amended.

MPEP 706.07(a) clearly states that a second action on the merits in any application will not be made final where the examiner introduces a new ground of rejection neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

The reason for this is to leave no doubt among Examiners that they must state clearly and specifically any objections (the prime facie case) to patentability, and give the

applicant fair opportunity to meet those objections with evidence and argument. In re Oetiker, 24 USPQ 2d 1443, 1447 (Fed. Cir. 1992) (Plager, J., concurring).

For the foregoing reasons, it is submitted that the Final Rejection is premature, and withdrawal of the finality of the rejection is respectfully requested.

Respectfully submitted,

Mark N. Heflin
James B. Stewart
Samuel L. Kaesemeyer

A handwritten signature in cursive script, appearing to read "Alan P. Klein", is written over a horizontal line.

ALAN P. KLEIN
Attorney of record
Reg. No. 26,926

Phone: (703) 696-8113